

---

STATUTORY INSTRUMENTS

---

**2003 No. 694**

**TERMS AND CONDITIONS OF  
EMPLOYMENT, ENGLAND AND WALES**

**The ACAS (Flexible Working) Arbitration  
Scheme (England and Wales) Order 2003**

*Made* - - - - - *13th March 2003*

*Laid before Parliament* *13th March 2003*

*Coming into force* *6th April 2003*

**THE ACAS (FLEXIBLE WORKING) ARBITRATION  
SCHEME (ENGLAND AND WALES) ORDER 2003**

1. Citation, commencement, interpretation and extent
2. Commencement of the Scheme
3. Application of Part I of the Arbitration Act 1996
4. (1) Section 46(1)(b) of the Arbitration Act 1996 shall apply...  
Signature

---

**SCHEDULE — ACAS Arbitration Scheme**

**I. — INTRODUCTION**

1. The ACAS (Flexible Working) Arbitration Scheme (“the Scheme”) is implemented...
2. The Scheme provides a voluntary alternative, in the form of...
3. Resolution of disputes under the Scheme is intended to be...
4. The Scheme also caters for requirements imposed as a matter...

**II. — THE ROLE OF ACAS**

5. As more fully explained below, cases enter the Scheme by...
6. Unless in the course of a hearing, all communications between...
7. Paragraph 123 below sets out the manner in which any...

**III. — TERMS AND ABBREVIATIONS**

8. The term “Employee” is used to denote the claimant, including...

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

9. The term “Employer” is used to denote the respondent.
10. The term “EC law” means: (i) any enactment in the...
11. The term “Flexible Working Claim” means a claim by the...
12. With the exception of paragraph 21(i) below (“Requirements for entry...

#### IV. — ARBITRATOR'S TERMS OF REFERENCE

13. Every agreement to refer a dispute to arbitration under this...

#### V. — SCOPE OF THE SCHEME

14. Cases that are covered by the Scheme
15. The Scheme does not extend to other kinds of claim...
16. If a Flexible Working Claim has been referred for resolution...
17. Waiver of jurisdictional issues
18. Accordingly, when agreeing to refer a dispute to arbitration under...
19. Inappropriate cases

#### VI. — ACCESS TO THE SCHEME

20. The Scheme is an entirely voluntary system of dispute resolution:...
21. Any agreement to submit a dispute to arbitration under the...
22. Where an agreement fails to satisfy any one of these...
23. Where: (i) a dispute concerning a Flexible Working Claim as...
24. Notification to ACAS of an Arbitration Agreement
25. For the purposes of the previous paragraph, an Arbitration Agreement...
26. Where an Arbitration Agreement is not notified to ACAS within...
27. Any such hearing and award will be governed by the...
28. Consolidation of proceedings

#### VII. — SETTLEMENT AND WITHDRAWAL FROM THE SCHEME

29. Withdrawal by the Employee
30. Withdrawal by the Employer
31. Settlement
32. If such an agreement is reached: (i) upon the joint...
33. An agreed award shall state that it is an award...
34. In rendering an agreed award, the arbitrator:

#### VIII. — APPOINTMENT OF AN ARBITRATOR

35. The ACAS Arbitration Panel
36. Appointment to a case
37. Once ACAS has been notified of a valid Arbitration Agreement,...
38. Arbitrator’s duty of disclosure
39. Once appointed, and until the arbitration is concluded, every arbitrator...
40. Removal of arbitrators
41. Applications under the Scheme to remove an arbitrator on any...
42. If ACAS refuses such an application, a party may thereafter...
43. (1) Sections 24(1)(a) and (c), 24(2), 24(3), 24(5) and 24(6)...
44. The arbitrator may continue the proceedings and make an award...
45. Death of an arbitrator
46. Replacement of arbitrators
47. Once appointed, the replacement arbitrator shall determine whether and, if...

#### IX. — GENERAL DUTY OF THE ARBITRATOR

48. The arbitrator shall:— (i) act fairly and impartially as between...

49. The arbitrator shall comply with the general duty (see paragraph...

X. — GENERAL DUTY OF THE PARTIES

50. The parties shall do all things necessary for the proper...

XI. — CONFIDENTIALITY AND PRIVACY

51. Arbitrations, and all associated procedures under the Scheme, are strictly...

52. Hearings may only be attended by the arbitrator, the parties,...

XII. — ARRANGEMENTS FOR THE HEARING

53. Initial arrangements

54. Once an arbitrator has been appointed by ACAS, a hearing...

55. The arbitrator shall decide the date and venue for the...

56. The ACAS Arbitration Section shall contact all parties with details...

57. Expedited hearings

58. Venue

59. Where premises have to be hired for a hearing, ACAS...

60. Assistance

61. Travelling expenses/loss of earnings

62. No loss of earnings are payable by ACAS to anyone...

63. Applications for postponements of, or different venues for, initial hearings

64. If the application is rejected, the initial hearing will be...

65. This provision does not affect the arbitrator's general discretion (set...

XIII. — NON-COMPLIANCE WITH PROCEDURE

66. If a party fails to comply with any aspect of...

XIV. — OUTLINE OF PROCEDURE BEFORE THE HEARING

67. Once a hearing has been fixed, the following procedure shall...

68. At least 14 days before the date of the hearing,...

69. Written statements of case should briefly set out the main...

70. Supporting documentation or other material may include (without limitation) copies...

71. The parties must also supply details of any relevant awards...

72. Legible copies of documents must be supplied to ACAS even...

73. No information on the conciliation process, if any, shall be...

74. Submissions, evidence and witnesses not previously notified

75. All representatives and witnesses who have been listed as accompanying...

76. Requests for documents

77. Requests for attendance of witnesses

78. Preliminary hearings and directions

79. In the course of a preliminary hearing or in correspondence,...

XV. — OUTLINE OF PROCEDURE AT THE HEARING

80. Arbitrator's overall discretion

81. Language

82. Witnesses

83. Examination by the arbitrator

84. Representatives

85. Strict rules of evidence

86. Non-attendance at the hearing

87. In the case of the non-attendance of the Employee, if...

88. Post-hearing written materials

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

XVI. — QUESTIONS OF EC LAW AND THE HUMAN RIGHTS ACT  
1998

- 89. Appointment of legal adviser
- 90. The legal adviser will be appointed by ACAS, to report...
- 91. The arbitrator shall allow the legal adviser to attend the...
- 92. The parties shall be given a reasonable opportunity to comment...
- 93. Court determination of preliminary points

XVII. — AWARDS

- 94. Form of the award
- 95. The award (unless it is an agreed award) shall:—
- 96. Remedies

XVIII. — AWARDS OF COMPENSATION

- 97. Subject to 98 below, when an arbitrator makes an award...
- 98. When an arbitrator makes an award of compensation in respect...
- 99. In calculating the amount of a week's pay of an...

IXX. — ISSUE OF AWARDS AND CONFIDENTIALITY

- 100. The arbitrator's award shall be sent by ACAS to both...
- 101. The award shall be confidential, and shall only be issued...

XX. — CORRECTION OF AWARDS

- 102. Scrutiny of awards by ACAS
- 103. Correction by the arbitrator
- 104. In so far as any such correction or additional award...
- 105. Any application by a party for the exercise of this...
- 106. Any correction of the award shall be made within 28...
- 107. Any additional award shall be made within 56 days of...
- 108. Any correction of the award shall form part of the...

XXI. — EFFECT OF AWARDS, ENFORCEMENT AND INTEREST

- 109. Effect of awards
- 110. This does not affect the right of a person to...
- 111. Enforcement
- 112. Interest

XXII. — CHALLENGING THE AWARD

- 113. Challenges on grounds of substantive jurisdiction
- 114. Challenges for serious irregularity
- 115. Appeals on questions of EC law and the Human Rights Act 1998
- 116. Time limits and other procedural restrictions on challenges to awards
- 117. Common law challenges and saving
- 118. Challenge or appeal: effect of order of the court

XXIII. — LOSS OF RIGHT TO OBJECT

- 119. If a party to arbitral proceedings under this Scheme takes...

XXIV. — IMMUNITY

- 120. An arbitrator under this Scheme is not liable for anything...
- 121. ACAS, by reason of having appointed an arbitrator or nominated...

XXV. — MISCELLANEOUS PROVISIONS

122. Requirements in connection with legal proceedings
123. Service of documents and notices on ACAS or the ACAS Arbitration Section
124. Paragraph 123 (above) does not apply to the service of...
125. Service of documents or notices on any other person or entity (other than ACAS or the ACAS Arbitration Section)
126. If such a notice or other document is addressed, pre-paid...
127. Paragraphs 125 and 126 (above) do not apply to the...
128. Powers of court in relation to service of documents
129. Reckoning periods of time

XXVI. — TERRITORIAL OPERATION OF THE SCHEME

130. The Scheme applies to disputes involving an Employer who resides...

Explanatory Note